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IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 534 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.PARIKH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

 AMARKUNJ CO OP HOUSING SOCIETY LTD

Versus

STATE OF GUJARAT

 Appearance:

MR KG PANDIT for Petitioners

MR VB GHARANIA, AGP for Respondent No. 1, 3

CORAM : MR.JUSTICE M.S.PARIKH

Date of decision: 27/08/98

ORAL JUDGEMENT

Rule. Service of rule waived by Mr. V.B. Gharania, Ld. AGP for respondents nos. 1 and 3 and Mr. A.J. Patel, learned advocate for respondent no.2.

2. In this petition order Annexure-F rendered by the learned Deputy Secretary (Appeal), Agriculture and Cooperation Department, has been subjected to challenge. The main ground on which the impugned order has been brought under challenge is that the same has been passed without hearing the petitioners' learned advocate Mr.

K.G. Pandit. His submission is that he had sent his Clerk on 14/3/1998, which was the final date of hearing before the revisional authority. His further submission is that neither the adjournment prayed for by him was granted nor any rejection of adjournment was communicated to him. Thus, he was in dark with regard to the impugned order having been passed without hearing him or without placing the matter for hearing. It has been submitted on behalf of the petitioners as well as the Government that the litigation between the parties has been pending for years together. It has further been submitted that in any case if any opportunity is to be given to the petitioners, the petitioners would be put to terms including terms with regard to payment of cost.

3. Having heard the learned advocates for the parties and the Ld. AGP for the State, I am of the opinion that the petitioners should get opportunity of hearing before the learned revisional authority. However, bearing in mind the number of adjournments which were given by the learned revisional authority prior to taking of decision, the petitioners are directed to pay cost quantified at Rs.1,000/- to the respondent no.2. The impugned order is hereby set aside on petitioners depositing cost of Rs.1,000/- in this Court or paying to the respondent no.2 on or before 15/9/1998. Upon such deposit the respondent no. 2 shall be under permission to withdraw the same after due verification by the office of this Court. After the amount is so deposited the matter will stand remanded to the learned revisional

authority before whom

parties will appear on 25/9/1998. The learned revisional authority will decide the matter afresh strictly on merits after hearing the parties.

Rule made absolute in the aforesaid terms with no order as to cost so far as the Government is concerned.

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PVR sca53498j.